



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,072	12/15/2003	Edward Patrick	2964P020	5253

8791 7590 12/06/2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD  
SEVENTH FLOOR  
LOS ANGELES, CA 90025-1030

EXAMINER

BLACK, LINH

ART UNIT PAPER NUMBER

2163

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/737,072	<b>Applicant(s)</b> PATRICK ET AL.	
	<b>Examiner</b> LINH BLACK	<b>Art Unit</b> 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 7-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/8/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This communication is in response to the document dated 12/15/2003.

Claims 1-6 are pending in the application. Claims 1, 3, 4, 6 are independent claims. Claims 7-31 are withdrawn from consideration based on the restriction states below. Applicant's Representative Farzad E. Amini elected group I without traverse on November 15, 2005.

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-6, drawn to data structure, classified in class 707, subclass 100.
- II. Claims 7-31, drawn to online content to be delivered to customers, marketing communications, online survey, billing data processed by merchants, classified in class 707, subclass 205.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I-II are related as sub-combinations disclosed as usable together in a single combination. The sub-combinations are distinct from each other if they are shown to be separately usable. In the instant case, each of the respective inventions has a separate utility other than with the other invention. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and the search required for group I, is not required for the other group, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (US 6741969).

In the specification, second paragraph of the DETAILED DESCRIPTION Section, Applicants teach "The following describes some aspects of the system in the context of a commercial application where the group entity is a merchant having online presence and the member entities are the merchant's existing customers (e.g., subscribers). The description, however, is not limited to such a commercial application."

As per claims 1 and 3, Chen et al. teach:

storing data about a plurality of member entities that have a relationship with a group entity – col. 1, lines 51-67; col. 2, lines 64-66.

associating a state variable with each member entity – col. 3, lines 38-47;  
col. 5, line 54 to col. 6, line 6; col. 13, lines 5-43 (new customer status,  
dining frequency, beverage choice, and other variables.)

automatically updating the state variable of each member entity with one of  
a group of predefined, first states, in response to applying one of a set of  
predefined, rules to analyze some of the stored data, wherein the set of  
rules are defined in part by the group entity – col. 6, lines 53-60; col. 9,  
lines 25-39; col. 12, line 66 to col. 13, line 43; col. 18, lines 14-67.

automatically determining whether or not online content is to be delivered to  
each member entity based on the state variable of the member entity – col.  
6, lines 7-35 and lines 57-60; col. 15, lines 43-58; col. 7, lines 1-6.

As per claim 2, Chen et al. teach:

wherein the stored data includes data that has been derived from online  
interaction between each member entity and the group entity – col. 9, line  
47 to col. 10, line 15; col. 15, lines 19-58.

As per claims 4 and 6,

storing data about a plurality of member entities that have a relationship  
with a group entity - col. 1, lines 51-67; col. 2, lines 64-66.

Art Unit: 2167

associating a state variable with each member entity - col. 3, lines 38-47; col. 5, line 54 to col. 6, line 6; col. 13, lines 5-43 (new customer status, dining frequency, beverage choice, and other variables.)

automatically updating the state variable of each member entity with one of a group of predefined, first states, in response to applying one of a set of predefined, rules to analyze some of the stored data, wherein the set of rules are defined in part by the group entity - col. 6, lines 53-60; col. 9, lines 25-39; col. 12, line 66 to col. 13, line 43; col. 18, lines 14-67.

automatically personalizing online content that is to be delivered to each member entity; wherein the state variable determines in part how the online content for the member entity is personalized - col. 3, lines 19-47; col. 13, lines 44-59; col. 14, lines 22-25; col. 15, lines 43-58.

As per claim 5

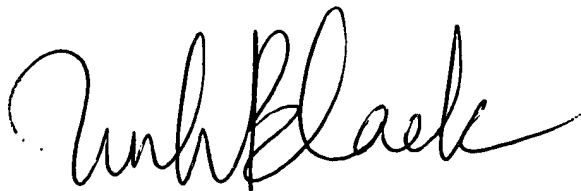
wherein the stored data includes data that has been derived from online communications between each member entity and the group entity - col. 9, line 47 to col. 10, line 15; col. 15, lines 19-58.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH BLACK whose telephone number is 571-272-4106. The examiner can normally be reached on 8am - 5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LINH BLACK  
Examiner  
Art Unit 21673

November 28, 2005



Primary Examiner  
Art Unit 2167